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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

ALBERT GILBERT,

Plaintiff and Respondent,

v.

BRITNEY DIXON,

Defendant and Appellant.

C086175

(Super. Ct. No.
STAFLCUSU20080006816)

Albert Gilbert (father) and Britney Dixon (mother) are the parents of a 10-year-old daughter (minor) and share custody of her. Mother appeals from the trial court's denial of her request to modify the custody order. No respondent's brief has been filed. Although mother's presentation, written in the first person with scant citations to the record, does not conform to the rules and protocols of appellate procedure, in the interests of justice, we will decide the appeal. We will affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Minor has lived primarily with father since she was in kindergarten. In March 2017 father requested the trial court modify the custody order to reduce visitation by mother. That same month, mother filed a petition requesting custody of minor.

A trial was held in September 2017. Mother, father, mother's friend, and the stepmother testified. Mother testified (1) she visited with minor on the weekends, (2) minor is underweight and not "clean," (3) minor did not visit the doctor enough, (4) father does not allow minor to eat when she gets home from school if she has eaten lunch at school, (5) father would not let minor wear dresses to school that mother bought for her, and (6) father would not allow minor to return phone messages.

Mother's friend testified that she had observed minor with "dirty and uncombed hair."

Father testified that minor "does well in school but struggled last year." She did not wear dresses to school because she is a "tomboy," minor was "always clean," had "everything she needs" at his house, including food, structure, and clothes. They had lived in the same home since 2013. Minor walked to school with her siblings and had breakfast at school. Father helped minor with homework, including via Facetime if he was unavailable at home.

The stepmother testified that mother and father have "poor communication."

The only documents proffered or admitted at trial were minor's report card from the 2016-2017 school year.

In October 2017 the court denied mother's request to change custody and ordered continued joint custody, with weekend visitation for mother. The court noted there was "no evidence" to support the "major change" of awarding mother primary custody of minor. There was no evidence such a change was in minor's best interests. The trial court encouraged mother and father to improve their communication and be "more cooperative."

Mother filed a timely appeal.

DISCUSSION

“[C]ustody modification is appropriate only if the parent seeking modification demonstrates ‘a significant change of circumstances’ indicating that a different custody arrangement would be in the child’s best interest.” (*In re Marriage of Brown & Yana* (2006) 37 Cal.4th 947, 956; see also Fam. Code, § 3087 [“[a]n order for joint custody may be modified or terminated . . . if it is shown that the best interest of the child requires modification or termination of the order”].) We review orders regarding custody for abuse of discretion. (*Montenegro v. Diaz* (2001) 26 Cal.4th 249, 255.)

Mother contends the trial court erred in denying her request to modify the custody order because father is not adequately caring for minor. Mother alleges their living situation is inappropriate. She also claims father does not help minor with school, alleging that minor has poor attendance and is not finishing her homework. Mother also claims father does not feed minor adequately and limits her bathing to two times a week. In addition, mother also alleges minor is not receiving adequate medical care.

Despite mother’s contentions, she has failed to demonstrate a significant change in circumstances indicating a different custody arrangement would be in minor’s best interest. Mother offered only her own self-serving statements and those of her friend to support her claim that father was inadequately caring for minor. Father testified at trial that, although minor had struggled in school recently, she had food, structure, clothing, and “everything she needs” at his home. We find no abuse of discretion in the trial court’s determination that it was not in minor’s best interest to award custody to mother.

DISPOSITION

The judgment is affirmed.

RAYE, P. J.

We concur:

ROBIE, J.

DUARTE, J.